It is contended here, as it was in the state courts, that the order contravenes the due process of law clause of the Fourteenth Amendment, in that it takes property of the railroad company for private use, or for public use without compensation.

Such an order, being legislative in its nature and made by an instrumentality of the State, is a state law within the meaning of the Constitution of the United States and the laws of Congress regulating our jurisdiction. *Grand Trunk Western Ry. Co.* v. *Railroad Commission of Indiana*, 221 U. S. 400, 403; *Ross* v. *Oregon*, 227 U. S. 150, 162–163; *Home Telephone & Telegraph Co.* v. *Los Angeles*, 227 U. S. 278, 295–296; *Atlantic Coast Line R. R. Co.* v. *Goldsboro*, 232 U. S. 548, 555; *Wadley Southern Ry. Co.* v. *Georgia*, 235 U. S. 651, 660–661; *Arkadelphia Milling Co.* v. *St. Louis Southwestern Ry. Co.*, 249 U. S. 134.

Under the laws of the State the side track before its removal, although used principally in moving freight from and to Cameron's elevator and coal yard, was open to use by the public and subject to public control like other parts of the company's road; in other words, it was a track which the State impressed with a public character. *Truesdale* v. *Peoria Grape Sugar Co.*, 101 Illinois, 561, 567; *Chicago Dock & Canal Co.* v. *Garrity*, 115 Illinois, 155, 167, 171; *Chicago & Alton R. R. Co.* v. *Suffern*, 129 Illinois, 274, 286. Not only so, but the statute under which its restoration was ordered contains express provisions whereby it will retain that character and be open to use by other shippers as well as by Cameron. Hurd's Stats., 1916, c. 111a, § 45.

The shipments for which the track has been used have yielded the company a revenue of about $20,000 each year for several years. What the cost of restoration will be the record does not disclose, but the commission, with knowledge of such matters, has found that it is justified by the business reasonably to be expected; and the Su-

preme Court of the State, besides sustaining that and other findings of the commission, aptly points out that but for the hasty and improper removal of the track the company "would not be at the expense of replacing it." When the track is restored the company will own it and be entitled to make a reasonable charge for its use, just as is the case with other property employed in the company's transportation service.

Applying the decision just announced in *Chicago & Northwestern Ry. Co.* v. *Ochs*, *ante*, 416, we think the order does not take property of the company for private use, or for public use without compensation, in contravention of the Fourteenth Amendment.

Judgment affirmed.